

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

KENNETH FRIEDMAN,

Petitioner,

vs.

JACK PALMER, *et al.*,

Respondents.

3:07-cv-00338-LRH-VPC

**ORDER**

This action is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, filed by petitioner, a prisoner at Lovelock Correctional Center. Before the Court are respondents' motion to dismiss (Docket #31), petitioner's response and supplemental responses (Docket #33, 34, 35), and respondents' reply (Docket #36).

Petitioner was convicted of Aggravated Stalking, Indecent Exposure, and various counts of Lewdness. The instant habeas petition contains 60 claims challenging the constitutionality of petitioner's conviction. Respondents move to dismiss on the basis that the petition is premature, as state post-conviction proceedings are on-going. (Respondents' Exhibits 1, 2, 3). This Court agrees.

Petitioner is advised that he must first present his grounds for relief to the state court before a federal court may review the merits of the issues he raises. To exhaust a claim, petitioner must have "fairly presented" that specific claim to the Supreme Court of Nevada. *See Picard v. Conner*, 404 U.S. 270, 275-76 (1971); *Schwartzmiller v. Gardner*, 752 F.2d 1341, 1344 (9th Cir. 1984). This means that all motions and appeals related to his conviction that are now pending in the state

1 district court and in the Nevada Supreme Court must be concluded before petitioner can file a federal  
2 habeas petition. The federal habeas petition will be dismissed, without prejudice, as petitioner has  
3 not exhausted his claims in state court.

4 Finally, the Court does not reach the remaining motions filed by petitioner, as the instant  
5 ruling on the motion to dismiss disposes of this matter.

6 **IT IS THEREFORE ORDERED** that respondents' motion to dismiss (Docket #31) is  
7 **GRANTED.**

8 **IT IS THEREFORE ORDERED** that all other pending motions (Docket #25, 26, 27, 28,  
9 30, 31, 37, and 43) are **TERMINATED.**

10 **IT IS FURTHER ORDERED** that this habeas petition is **DISMISSED WITHOUT**  
11 **PREJUDICE** based on petitioner's failure to exhaust his grounds for relief in state court. The Clerk  
12 shall enter judgment accordingly.

13 Dated this 30th day of May, 2008.



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15 LARRY R. HICKS  
16 UNITED STATES DISTRICT JUDGE  
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